IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

-

WRIT PETITION NO : 7209 of 1994

Between:

The Management of Singareni Collieries Co., Ltd.,

rep. by Chief General Manager
Bellampali, Adilabad Dist.

..... PETITIONER

AND

1 The Presiding Officer Industrial Tribunal-I,
Chandra Vihar, M.J. Road,
Hyderabad.
2 The Workmen of Singareni Collieries Co., Ltd.,

rep. by Chief Vice President
Singareni Collieries Worker's Union (AITUC),

Bellampalli, Adilabad Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction, or writ particularly one in the nature of Writ of Certiorari after calling for the records from the 1st respondent in I.D.No.65 of 1989 and quash the Award passed therein dated 23-11-1993.

Counsel for the Petitioner: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: G.P. FOR SOCIAL WELFARE

Counsel for the Respondent No.2: None appeared

The Court made the following:

ORAL ORDER:

Heard both sides.

2. The Award in I.D.No.65 of 1989, dated
23-11-1993 passed by the Industrial Tribunal-I at Hyderabad (for brevity "the Tribunal"), declaring the workman as a 'Badili Workman' and his termination is hit by Section-25 of Industrial Disputes Act, 1947,
(for brevity "the Act") is assailed by the Management in the present writ petition.

3. The petitioner is the Management, the first respondent is the Tribunal and the second respondent is the workmen of Singareni Collieries Company Limited.

4. For the sake of convenience, the petitioner, the first respondent and the second respondent will be referred to as "the

Management, the Tribunal and the workmen" respectively.

5. It is the contention of the learned counsel for the workman that the workman was only a Badili Workman, whose services are more or less casual in nature.
In other words, as and when work is available, the workmen will be engaged and there will not be any fixed salary as such.

6. It is to be seen that the Badili Workman is also a workman under the definition of the Act. But, it is important to be noted that when the services of such workmen are terminated, in violation of the provisions of Section 25 (F) of the Act, the Management is bound to follow the conditions prescribed under Section 25 (F) of the Act.

7. Obviously, the termination was effected without following the procedure prescribed under Section 25 (F) of the Act. Therefore, the Tribunal had rightly held that the termination of the workmen is illegal since the procedure prescribed under Section 25 (F) of the Act was not followed. Accordingly, the tribunal had passed the impugned Award directing the Management to pay the back wages with continuity of service.

8. Here is the problem. As already pointed out, the Badili Workmen will not have guaranteed continuity of service nor there would be any fixed pay scale to them. In such cases, the reinstatement should be understood as reinstatement in the same capacity, i.e., as Badili Workmen, in which event, the workmen would and should be engaged as Badili Workmen alone as and when job opportunity is available.

9. Further, from the perusal of the impugned Award of the Tribunal, it

could be seen that the Management was given liberty to terminate the services of the workmen after paying retrenchment compensation, which means that after following the procedure under Section 25 (F) of the Act. It implies that the Management was given liberty to retrench the workmen, if need be, after following due process of law, i.e., as prescribed under Section 25 (F) of the Act. Accordingly, the impugned Award of the Tribunal should be understood as indicated above.

10. With the above clarification, the writ petition is disposed of. However, there shall be no order as to costs.

11. It is needless to mention that any payments made during pendency of the writ petition, in compliance of the provisions of Section 17 (B) of the Act, shall not be recovered from the workmen.

12. The interim stay granted by this Court in W.P.M.P.No.8806 of 1994, dated 18-04-1994, is hereby vacated.

D.S.R. VARMA, J

29TH OCTOBER 2004

ISN/KRK

To

1 The Presiding Officer Industrial Tribunal-I,
Chandra Vihar, M.J. Road, Hyderabad.
2. The Chief Vice President,

The Workmen of Singareni Collieries Co., Ltd.,

Singareni Collieries Worker's Union (AITUC),

Bellampalli, Adilabad Dist.

3. Two CCs to G.P. for Social Welfare, High Court Buildings, Hyderabad (OUT).

4. Two CD copies